

CHAPTER 34
VEHICLES SUBJECT TO REGISTRATION

[Prior to 12/17/86, Revenue Department[730]]

701—34.1(422,423) Definitions.

34.1(1) A “*vehicle subject to registration*” shall mean any vehicle subject to registration pursuant to Iowa Code section 321.18. This includes every motor vehicle, trailer and semitrailer when driven or moved upon a highway with certain exceptions as stated in Iowa Code section 321.18. This also includes new and used motor vehicles for the purpose of the administration of Iowa Code chapters 422 and 423; a modular home shall not be considered a vehicle subject to registration, but rather a modular home shall be subject to the provisions of Iowa Code chapters 422 and 423 pertaining to sales and use tax on sales of tangible personal property.

34.1(2) “*Dealers*” shall be persons licensed to sell vehicles subject to registration.

34.1(3) “*Taxable price*” shall be the total delivered price of the vehicle less cash discounts, trade-in allowances, fees imposed by the dealer for document processing, commonly known as “doc fees,” and any manufacturer’s cash rebate to a purchaser which is applied to the purchase price of a vehicle. The total delivered price shall include all accessories, additional equipment, services, freight and manufacturer’s tax, valued in money, whether paid in money or otherwise. Gasoline, separately itemized, shall not be subject to use tax.

34.1(4) *Taxable moment.* Rescinded IAB 9/4/91, effective 10/9/91.

This rule is intended to implement Iowa Code sections 422.42(3), 422.43, 423.1(1), 423.2, 423.4(4) and 423.7.

701—34.2(423) County treasurer shall collect tax. It shall be the duty of the county treasurer to collect use tax, when applicable, on vehicles subject to registration. The departmental rules adopted shall apply in the collection of use tax on vehicles subject to registration registered in their respective counties.

701—34.3(423) Returned vehicles and tax refunded by manufacturers. When a vehicle subject to registration is sold and later returned to the seller with the entire purchase price refunded, the purchaser is entitled to a refund of the use tax paid. To obtain a refund the purchaser must be able to show that the entire purchase price was returned and provide proof that the use tax had been paid. See rule 701—30.11(423) for details on claims for refund.

If a vehicle manufacturer has refunded to any purchaser, lessee, or lessor of a vehicle any amount required to be refunded by Iowa Code chapter 322G (Lemon Law), and a portion of that refund is use tax paid by the purchaser, lessee, or lessor, then the department shall refund to the manufacturer the amount of use tax which the manufacturer has refunded to the purchaser, lessee, or lessor. The manufacturer must send the department a written request for a refund, which contains adequate proof that the tax was paid when the vehicle was purchased and that the manufacturer refunded the tax to the purchaser, lessee, or lessor who paid it.

This rule is intended to implement Iowa Code sections 322G.4(2), 423.1, and 423.7.

701—34.4(423) Use tax collections required. The county treasurer or state motor vehicle registration division shall, before issuing a registration for a vehicle subject to registration, collect use tax due. The issuing office shall remit the tax in its monthly report to the department unless requirements for electronic transmission of remittances and related information specify otherwise.

For reports for months starting on or after April 1, 1990, remittances are to be made electronically in a format and by means specified by the department of revenue and finance. Monthly reports are to be made separately from electronic transmission of the remittance. Remittances transmitted electronically are considered to have been made on the date that the remittance is added to the bank account designated by the treasurer of the state of Iowa. The filing of a monthly report and the remittance of the tax are simultaneous acts both of which shall occur for either condition to be met.

This rule is intended to implement Iowa Code section 423.7.

701—34.5(423) Exemptions. An affidavit of exemption may be required if there is reason to believe that the exemption being requested is not within the provisions of one of the exemptions set forth by law or it is believed that the person requesting the exemption will not use the vehicle for one of the exempt purposes. The burden of proof whether an exemption applies shall be upon the person claiming the exemption.

An original registration in Iowa may be issued for a vehicle subject to registration without the collection of use tax only in the following situations, unless exceptions are noted:

34.5(1) When the applicant for an Iowa registration for a vehicle subject to registration has paid to another state a state sales, use or occupational tax on that unit, credit shall be allowed against the Iowa tax due in the amount paid. Credit shall not be allowed when such tax is paid upon equipment rental receipts. If tax paid is equal to or greater than the Iowa tax due, no further tax shall be collected. If tax paid is less than the Iowa tax due, the difference shall be collected by Iowa.

34.5(2) When the consumer applies for registration of a “homemade vehicle subject to registration” built from parts purchased at retail, upon which the consumer paid a tax to the seller, and never before registered. The term “homemade vehicle subject to registration” shall include such things as homemade automobiles, trucks, trailers, motorcycles and motorbikes, but shall not include those vehicles subject to registration which are made by a manufacturer engaged in the business for the purpose of sales or rental.

34.5(3) When a nonresident of Iowa applies for a “nonresident-in-transit” registration for a motor vehicle purchased in Iowa but which the person intends to permanently register in a state other than Iowa.

34.5(4) When vehicles are purchased by any federal or state governmental agency or tax-certifying or tax-levying body of Iowa or governmental subdivision thereof. The exemption shall not apply to vehicles purchased and used in connection with the operation of or by a municipally owned public utility engaged in selling gas, electricity or heat to the general public and, therefore, shall be subject to use tax.

34.5(5) When the purchaser of a vehicle subject to registration in Iowa remits use tax on the taxable price, then moves the vehicle to a foreign state where it is registered in that state and subsequently returns the same vehicle to Iowa where it is again registered. The same purchaser shall have maintained ownership of the vehicle throughout the respective moves from and back to Iowa.

34.5(6) When a vehicle subject to registration is inherited, the county treasurer may require the registrant to set forth the facts before such exemption is granted.

34.5(7) When an applicant for an Iowa registration has moved from another state with intent of changing residency to Iowa and if the vehicle subject to registration was purchased for use in the state from which the applicant moved and was not, at or near the time of such purchase, purchased for use in Iowa.

34.5(8) Vehicles purchased for lease and used outside the state of Iowa. When certain vehicles defined as “motor trucks, truck tractors, road tractors, trailers, or semitrailers” in Iowa Code section 321.1, except vehicles designed primarily for carrying persons, are purchased for the purpose of leasing to a lessee for use outside the state of Iowa, and actually leased to a lessee for use outside Iowa, such vehicles shall be exempt from use tax provided the subsequent sole use in Iowa is in interstate transportation or interstate commerce.

Should a “use,” as defined in Iowa Code subsection 423.1(1) occur in Iowa, subsequent to the leasing to a lessee outside the flow of interstate transportation or interstate commerce, use tax would be owing. The tax, if found to be due, shall be computed on the purchase price.

The tax, if due, shall be paid on or before the last day of the month following the close of the quarter in which a “use” in Iowa, outside the flow of interstate transportation or interstate commerce, did occur. The tax should be paid directly to the Iowa department of revenue and finance.

34.5(9) Vehicles which are transferred from a business which was a sole proprietorship or partnership to a corporation for the purpose of continuing the business if all of the stock of the corporation is owned by the sole proprietor and the sole proprietor’s spouse or by all the partners if the business was a partnership are exempt from tax. This exemption is also applicable if vehicles are transferred from a corporation to a sole proprietorship or partnership formed for the purpose of continuing the business when carried on by the same person or persons who were stockholders of the corporation. This exemption contains the following provisions:

a. If the business transferring the vehicle is a sole proprietorship or partnership, the vehicle must be transferred to a new corporation. For the purposes of this subrule, a corporation is a “new” corporation if, at the time of transfer, the corporation has been incorporated for one calendar year or less.

b. The new corporation must have been formed for the purpose of continuing the business of the sole proprietorship or partnership. The activities of the new corporation must, therefore, be the same as the sole proprietorship or the partnership.

c. The new corporation must be owned 100 percent by the sole proprietor, the sole proprietor’s spouse or all the partners, in the case of a partnership, which is transferring the vehicle.

d. The exemption is equally available when vehicles are transferred from a corporation to a sole proprietorship or to a partnership.

e. In such cases, the newly formed sole proprietorship or partnership must have been formed to continue the business of the corporation. Therefore, the activities of the new entity must be the same as the corporation.

f. The new sole proprietorship or partnership must have owned all the stock in the transferring corporation when the corporation existed.

Effective July 1, 2001, this exemption is also applicable to transfers to and from limited liability companies. The rules regarding transfers to a “new” corporation are also applicable to a transfer to a limited liability company. In addition, for a limited liability company to claim the exemption, the creation of the limited liability company must be by the same person or persons who owned the transferor entity.

34.5(10) Purchases of vehicles subject to registration by persons who will rebuild those vehicles into ambulances, rescue, or fire vehicles (as defined in Iowa Code chapter 321) are exempt from tax. These purchases are exempt only if the person purchasing the vehicle for rebuilding into an ambulance, rescue, or fire vehicle is a licensed wholesaler of new motor vehicles. This exemption is applicable only to purchases of vehicles which will be rebuilt into ambulances, rescue, or fire vehicles.

34.5(11) Purchases of vehicles by a licensed vehicle recycler under Iowa Code chapter 321H are exempt from tax. These purchases are exempt as long as the recycler sells only those parts or vehicles for which the recycler is licensed.

34.5(12) Purchase of vehicles by a person regularly engaged in the business of renting vehicles or a vehicle that is registered and titled for rental use by a motor vehicle dealer licensed under Iowa Code chapter 322 for the purpose of short-term automobile rental (see Iowa Code chapter 27) or, effective January 1, 1997, vehicles subject to registration purchased for a long-term vehicle lease of 12 months or more and titled by a lessor licensed pursuant to Iowa Code chapter 321 (see 701—rules 31.5(423) and 32.11(423)).

This rule is intended to implement Iowa Code sections 422.45(5), 423.4(4), 423.4(9) as amended by 2001 Iowa Acts, House File 736, section 7, and 423.4(16).

701—34.6(423) Vehicles subject to registration received as gifts or prizes. Persons receiving motor vehicles subject to registration as gifts or prizes are not obligated to pay use tax on the purchase price of those vehicles.

This rule is intended to implement Iowa Code sections 423.1(2) and 423.2.

701—34.7(423) Titling of used foreign vehicles by dealers. Licensed auto dealers shall not be required under the motor vehicle “title” law to register used foreign motor vehicles but shall be required to secure a title for such units by remitting required fees and submitting a completed application for title to the county treasurer of the dealer’s residence within 15 days of the vehicle’s arrival in this state. When applying for a title on such foreign-used vehicles, dealers shall execute and file a dealer’s resale affidavit, in duplicate, with the office issuing the title. The original shall be forwarded to the department along with the monthly use tax report, and the copy shall be retained by the issuing office.

If a dealer acquires a vehicle registered in another state which allows for reciprocity for Iowa vehicle registrations and titles, by allowing Iowa dealers to assign that state’s certificates of title and registrations, the dealer is not required to obtain a new registration or a new certificate of title. Instead, the Iowa dealer need only assign the foreign state’s certificate of title or registration to another person to effectuate a transfer of the vehicle.

This rule is intended to implement Iowa code sections 423.1(15) and 423.10.

701—34.8(423) Dealer’s retail sales tax returns. Sales of new or used motor vehicles and trailers, as defined, are expressly exempt from sales tax, as the law imposes use tax on new or used motor vehicles and trailers. If the dealer holds a sales tax permit, the dealer shall include on the sales tax return the gross receipts from sales of new or used motor vehicles and trailers and then take appropriate deductions in the section provided on the return.

701—34.9(423) Affidavit forms. Forms of affidavit required to establish purchase price, lease price, or exemption shall be furnished by the department and shall be available upon request.

The affidavit for the total delivered purchase price or lease price of a motor vehicle or trailer shall be established by the application for certificate of title and registration and a manufacturer’s statement of origin. Before a motor vehicle or trailer, purchased outside the state, is registered, the county treasurer must be satisfied that the information stated in the affidavit is true and correct.

Affidavits of exemption which are not correct in both substance and form shall not be accepted by the county treasurer, the motor vehicle division or the department in lieu of use tax. In case of doubt, the county treasurer or motor vehicle division shall collect tax. Claim for refund may be filed by the taxpayer if the taxpayer believes tax has been erroneously collected.

Rules 34.1(422,423) to 34.9(423) are intended to implement Iowa Code chapter 423 and Iowa Code section 423.7A as amended by 1996 Iowa Acts, chapter 1125.

701—34.10(423) Exempt and taxable purchases of vehicles for taxable rental. If a vehicle subject to registration is purchased for rental, and the gross receipts from that rental will be taxable, the purchase price of this vehicle is not exempt from use tax except under the circumstances set out in rules 701—32.11(423) and 32.12(423).

The purchase for rental is not a purchase of tangible personal property for resale because a lease or rental of tangible personal property is not a sale: *Cedar Valley Leasing, Inc. v. Iowa Department of Revenue*, 274 N.W.2d 357 (Iowa 1979); and the exemption allowed from tax for the use in Iowa of tangible personal property to be rented is not applicable to the use tax on motor vehicles because excluded from that exemption are vehicles subject to registration. See Iowa Code sections 422.45(18), 423.4(4), 423.4(14), 423.4(15), and 423.4(16).

This rule is intended to implement Iowa Code sections 422.45(2), 422.45(18), 423.4(4), and 423.4(16) as amended by 1996 Iowa Acts, chapter 1125, and Iowa Code chapter 422C.

701—34.11(423) Manufacturer’s refund of use tax to a consumer, lessor, or lessee of a defective motor vehicle. The department shall refund to a motor vehicle manufacturer any Iowa use tax which the manufacturer has refunded to a consumer, lessee, or lessor of a defective motor vehicle as required by Iowa Code section 322G.4, if the manufacturer presents a written request for refund and suitable proof that the use tax was paid at the time of purchase or lease and that the manufacturer refunded the use tax paid. Suitable proof of payment at time of purchase is a copy of a title showing payment of the use tax.

This rule is intended to implement Iowa Code section 322G.4.

701—34.12(423) Government payments for a motor vehicle which do not involve government purchases of the same. If a dealer or other seller transfers title to a vehicle under a contract of sale to a buyer, payment by a government of all or part of the purchase price of the vehicle is not a sale of that vehicle to the government making the payment, and the entire purchase price of the vehicle is subject to use tax.

EXAMPLE: A disabled veteran is purchasing a van. The veteran makes an application with the Veterans Administration (V.A.) to help purchase the van for \$30,695. The application is approved and the V.A. prepares a check for \$12,456. The check is paid to the order of the seller of the van. It is also the usual custom for a veteran to apply for a grant to pay some or all of the remainder of the price. If this grant is approved, a check is issued in the name of the veteran. The veteran then either assigns the check to the dealer or deposits the check and writes a personal check to the dealer for the remaining amount due. Under these circumstances, the van is sold to the veteran and not the U.S. government. The purchase price upon which tax is computed is \$30,695.

This rule is intended to implement Iowa Code section 423.7.

701—34.13(423) Transfers of vehicles resulting from corporate mergers and other types of corporate transfers. Corporate mergers often involve the transfer of title to large numbers of vehicles from a merging corporation to a surviving corporation. These transfers generally do not involve the “purchase” of these vehicles, though other transfers of vehicles between corporations may involve purchases of vehicles and thus be subject to use tax. See rule 701—15.20(422,423) for examples of property transfers between corporations which involve mergers without purchases and those non-merger transactions which involve purchases or transfers that may result in an obligation to pay use tax.

701—34.14(423) Refund of use tax paid on the purchase of a motor vehicle. If, as the result of an error, use tax had been paid which was not due under Iowa Code chapter 423, the use tax paid can be refunded to the purchaser. A claim for refund must be filed with the department within three years after the tax payment became due, or one year after the payment of tax was made, whichever is later.

This rule is intended to implement Iowa Code section 423.23.

701—34.15(423) Registration by manufacturers. Use tax on a vehicle registered in Iowa by the manufacturer of that vehicle from an MSO (manufacturer’s statement of origin) is calculated on the base value of 50 percent of the retail list price of the vehicle because such a manufacturer is required to pay use tax only on the manufacturer’s cost of materials used to manufacture the vehicle. However, it is important to note that this 50 percent exemption is provided only to manufacturers of the vehicle; it is not extended to subsidiaries of the manufacturer. A subsidiary of a manufacturer is required to pay Iowa use tax on 100 percent of that subsidiary’s purchase price of the vehicle at the time of the registration of the vehicle.

This rule is intended to implement Iowa Code section 423.2.

701—34.16(423) Rebates. Manufacturer's rebates can be used to reduce the taxable purchase price of a vehicle.

34.16(1) To qualify as a manufacturer's rebate for the reduction in the taxable price, all of the following elements must be present:

a. A rebate must be a return to the purchaser of an amount that the purchaser would otherwise have paid;

b. The rebate must be in the form of cash;

c. The rebate must be offered by a manufacturer which is any person or entity that fabricates, assembles, or combines materials and parts to create a vehicle subject to registration in Iowa;

d. The rebate must be given as part of a transaction between the manufacturer and the purchaser and must meet both of the following:

(1) The rebate must originate from an entity acting in the capacity of a manufacturer of such vehicles when the rebate is offered. The rebate cannot be offered by a vehicle manufacturer engaging in other activities, such as a manufacturer acting in the capacity of a credit card issuer or a financing program;

(2) The purchaser must be in the process of purchasing the vehicle at the time the rebate is given. The rebate cannot be given to a customer in a situation similar to the credit card rebate program, in which the customer earns the right to the rebate over a period of time. Purchase of the vehicle must occur simultaneously with the receipt of the rebate, and the rebate cannot be allowed unless the customer purchases the vehicle; and

e. The rebate must be applied to the base purchase price of the vehicle.

34.16(2) Reserved.

This rule is intended to implement Iowa Code section 423.1(8).

701—34.17(321,423) Repossession of a vehicle. A vehicle may be taken from a purchaser by the holder of the security interest in the vehicle or someone acting on the holder's interest, if the purchaser defaults on the terms of the purchase agreement. To be recognized as valid for use tax purposes, the repossession must be regulated under the terms of the Uniform Commercial Code and there must be a valid lien on the title of the vehicle. To be recognized as valid for use tax purposes, repossession of a vehicle can be made by dealers, by financial institutions, and by individuals. The taxable result of repossession depends on the identity of the person doing the repossessing and the manner in which the person doing the repossessing conducts the transaction.

34.17(1) Licensed vehicle dealer. If a licensed vehicle dealer repossesses a vehicle and anticipates reselling the vehicle, then the dealer can use the dealer's resale exemption, and no use tax is due at the time of the registration of the vehicle by the dealer.

34.17(2) Financial institution or private individual. A financial institution or a private individual may be a licensed dealer entitled to receive an exemption from use tax based on the dealer's license when registering a repossessed vehicle. Repossessions of vehicles that will be resold by a financial institution or an individual that does not have a dealer's license can be effectuated using a foreclosure affidavit. Use tax liabilities which arise as a result of such affidavits are as follows:

a. If the financial institution or individual uses the foreclosure affidavit to take title to the vehicle and register the vehicle, use tax is due based on the outstanding loan amount on the vehicle.

b. If the foreclosure affidavit is used merely to retain possession of the vehicle until a buyer is found, no tax is due on the repossession. No tax is due because a transfer of title does not occur.

Use tax liabilities which arise as a result of repossessions of mobile homes are handled in the same manner as vehicles.

This rule is intended to implement Iowa Code sections 321.48 and 423.2.

701—34.18(423) Federal excise tax. There are many types of federal excise taxes. The type of tax and time in which the federal excise tax is imposed determine if the federal tax is to be included in the taxable sales price for Iowa tax purposes. Federal excise tax imposed on manufacturers rather than at the time of the sale may not be deducted from the sale price. Instead, this type of federal excise tax remains as part of the taxable price for the purpose of computing Iowa tax. Another type of federal excise tax is imposed at the time of the sale. Federal luxury tax is imposed at the time of the sale of certain vehicles, trucks, buses, trailers, chassis, bodies, and parts and is to be collected by the retailer and remitted directly to the Internal Revenue Service. Federal excise tax which is imposed at the time of sale is excluded from the sale price for the purpose of computing Iowa tax. However, to be excluded from the sale price for the purpose of computing Iowa tax, this type of federal tax must be separately billed or itemized.

This rule is intended to implement Iowa Code section 423.1(8).

701—34.19(423) Claiming an exemption from Iowa tax. Tax on the taxable transfer of a vehicle is due and owing to the county treasurer at the time the vehicle is registered. If the purchase of the vehicle is not subject to tax, the county treasurer has the discretion to require the owner of the vehicle to complete an affidavit form setting forth the basis for exemption. The burden of proof that an exemption is proper is upon the person claiming the exemption.

This rule is intended to implement Iowa Code section 423.4.

701—34.20(423) Affidavit forms. Affidavit forms are used to establish purchase price or exemption. These forms are furnished by the department and are available upon request. The total delivered purchase price of a vehicle or trailer is established by the application for certificate of title and registration and a manufacturer's statement of origin (MSO). Before a vehicle or trailer that has been purchased outside of Iowa can be registered, the county treasurer must be satisfied that the information stated in the affidavit is accurate.

Affidavits of exemption which are not correct in substance and form will not be accepted in lieu of use tax by the county treasurer, department of transportation (DOT), motor vehicle division, or the department of revenue and finance. When a claimed exemption is in doubt, the county treasurer or DOT will collect the tax. Claims for refund of tax may be filed by a taxpayer if the taxpayer believes the tax was collected in error. See 701—34.14(423) for information on refunds.

This rule is intended to implement Iowa Code section 423.4.

701—34.21(423) Insurance companies. Insurance companies title and register vehicles when vehicles are damaged to the extent of being a total loss. Generally, in this type of transaction, the insurance company pays the insured for the vehicle that is totally damaged and, subsequently, the insurance company takes title to the damaged vehicle. In this situation, there is a transfer of the vehicle title from the insured to the insurance company for consideration (money paid by the insurance company to the insured for the totaled vehicle). Accordingly, Iowa use tax is due on the vehicle when the insurance company titles the vehicle. However, insurance companies are entitled to obtain a limited vehicle dealer's license for the purchase of damaged or repossessed vehicles (see 701—34.17(423) regarding repossession). If an insurance company has a dealer's license, then the dealer may purchase and register the vehicle without being required to pay Iowa use tax on the vehicle.

This rule is intended to implement Iowa Code section 423.21.

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CHAPTERS 35 and 36

Reserved